

REMARKS

Reconsideration of this application and the rejection of claims 33, 34, 36, 37 and 39-42 are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated October 31, 2005 (Paper No. 10282005), which has been made Final, and believe the application is now in condition for allowance, or in better form for appeal. The claims have been amended to more clearly describe the present invention.

Applicants have added new claim 43 to further distinguish the present invention from the prior art, and submit that claim 43 is in allowable form.

Claims 39-41 stand rejected under 35 U.S.C. §102(b) as being anticipated by Glatz et al. (U.S. Pat. No. 5,904,017). Glatz discloses a photo-luminescent safety accessory or tread cover 100 for attachment to walls, floors, stairs, handrails, etc. The tread cover 100 is formed from a molded non-luminescent material with a photo-luminescent material or strip 114 adhered thereto. The strip 114 can be formed integrally. (Col. 5, ll. 10-31; FIG. 1). Glatz discloses co-extrusion of the nonluminescent and photo-luminescent material, so that they molecularly bond to each other during extrusion, forming an integral product. Although aluminum can be extruded, Applicants submit that it cannot be co-extruded with a photo-luminescent pigment because of the different temperatures at which the materials are extruded (approximately 550°C for

aluminum, and generally less than 250°C for photo-luminescent materials having some degree of transparency).

In contrast, amended claim 39 now recites, among other things, “the fused photo-luminescent material being uncovered and located and extending to below a top of at least one said one of a channel and a depression...” Applicants submit that as amended, claim 39 is patentably distinct from Glatz. Specifically, the products disclosed by Glatz have the photo-luminescent material level with the wear surface. This is a significant disadvantage as the material may be scratched and abraded by sand and grit lodged in the sole of shoes (when used for example on stair treads) or by everyday wear and tear.

A further disadvantage of having the photo-luminescent material level with the wear surface is that the photo-luminescent material ends up with dirt entrained in the scratches, subsequently leading to the loss of its glow properties. The structure in Glatz is in direct contrast to the present invention which recites in amended claim 39 that the photo-luminescent material extends to below the top of at least one of the channel and the depression. Accordingly, Applicants respectfully traverse the rejection of claims 39-41 under 35 U.S.C. §102(b).

Furthermore, new claim 43, recites among other things that the substrate is metallic. In view of the above discussion, Glatz fails to disclose or suggest this structure. As such, claim 43 is patentable over Glatz.

Claims 33, 34, 36, 37 and 39-41 stand rejected under 35 U.S.C. §102(b) as being anticipated by French (U.S. Pat. No. 5,020,256). French

discloses a hand rail 1 for an escalator having a groove or recess 3 in an upper portion in which a card having printed matter 4 thereon is inlaid in a lower portion 5 of the recess. A clear material 6 is provided as a cover to protect the printed material 4. (Col. 2, ll. 34-40; FIG. 1). In another embodiment, the card 4 can include photo-luminescent printed material thereon, which is illuminated by a light source located underneath the card. (Col. 4, ll. 27-30).

In contrast, amended claim 33 now recites, among other things, “an exposed and uncovered photo-luminescent material located and extending to below a top of any given said one of a channel and a depression...” Applicants submit that as amended, claim 33 is patentably distinct from French. Specifically, as seen in FIGs. 1-5 of French, a transparent cover is provided over the printed advertising material in the handrail in order to protect the printed material from scratches or other damages. (Col. 2, ll. 38-40). In another embodiment, the printed material is covered with a transparent paint that dries to form a solidified coating configured for protecting the printed matter from vandalism or scratching. (Col. 1, ll. 47-51). In yet another embodiment, the printed matter is placed in a pocket or opening located between two pieces of material, the upper one of which is transparent, in order to protect the printed matter from damage. (Col. 1, ll. 60-68). Accordingly, Applicants submit that French fails to disclose or suggest an exposed and uncovered photo-luminescent material, as recited in amended claim 33.

Applicants further submit that although the photo-luminescent material in French is technically located below the handrail surface, the cover plate placed over the material is either level with or above the surface of the handrail. Unlike the present invention, where the material is protected from such damages allowing for maximum glow, scratches, dirt or other damages caused to the cover in French will detract from the glow properties of the material. Such a problem will not occur in the present invention, where the material entirely extends below the top surface of the channel or depression in which it is located.

Therefore, Applicants respectfully traverse the rejection of claims 33, 34, 36 and 37 under 35 U.S.C. §102(b).

With respect to claim 39, Applicants submit that as amended, claim 39 is patentably distinct from French. Specifically, amended claim 39 now recites, among other things, “the fused photo-luminescent material being uncovered and located and extending to below a top of at least one said one of a channel and a depression...” As discussed above, Applicants submit that French fails to disclose an uncovered photo-luminescent material, as recited in amended claim 39, but rather discloses a transparent cover placed over the material. Accordingly, Applicants respectfully traverse the rejection of claims 39-41 under 35 U.S.C. §102(b).

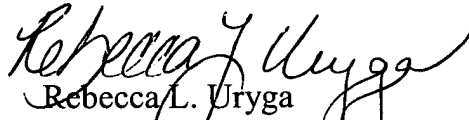
Claim 42 stands rejected under 35 U.S.C. §103(a) as being unpatentable over either Glatz et al. or French in view of the Applicants’

discussion of the prior art. Applicants have canceled claim 42, and accordingly submit that the rejection of claim 42 under 35 U.S.C. §103(a) is moot.

In view of the above amendments, the application is respectfully submitted to be in allowable form, or in better form for appeal. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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